

§ 337.205

5 CFR Ch. I (1–1–04 Edition)

- (1) The results of workforce planning and analysis;
- (2) Employment trends including the local or national labor market;
- (3) The existence of nationwide or geographic skills shortages;
- (4) Agency efforts including recruitment initiatives, use of other appointing authorities (e.g., schedule A, schedule B) and flexibilities, training and development programs tailored to the position(s), and an explanation of why these recruitment and training efforts have not been sufficient;
- (5) The availability and quality of candidates;
- (6) The desirability of the geographic location of the position(s);
- (7) The desirability of the duties and/or work environment associated with the position(s); and
- (8) Other pertinent information such as selective placement factors or other special requirements of the position, as well as the agency's use of hiring flexibilities such as recruitment or retention allowances.

§ 337.205 Critical hiring needs.

- (a) OPM will determine when there is a critical hiring need for particular occupations, grades (or equivalent) and/or geographic locations. OPM may decide on its own that there is such a need, or may make this decision in response to a written request from an agency.
- (b) In a request for direct-hire authority under this section, an agency must:
 - (1) Identify the position(s) that it must fill;
 - (2) Describe the event or circumstance that has created the need to fill the position(s);
 - (3) Specify the duration for which the critical need is expected to exist; and
 - (4) Include supporting evidence that demonstrates why the use of other hiring authorities is impracticable or ineffective.

§ 337.206 Terminations, modifications, extensions, and reporting.

- (a) *Termination and modification.* On a periodic basis, for each direct-hire authority that it previously granted, OPM will review the appropriate agency's use of the authority to ensure that the agency is using the authority prop-

erly and to determine if the agency's continued use of the authority is supportable. OPM will terminate or modify a direct-hire authority previously granted to an agency if OPM determines that there is no longer a severe shortage of candidates or a critical hiring need. OPM may also terminate an agency's authority when the agency has used its authority improperly.

- (b) *Extension.* OPM may extend an agency's direct-hire authority if OPM determines that there is or will continue to be a severe shortage of candidates or a critical hiring need with respect to a particular position as of the date on which the agency's authority is due to expire.

- (c) *Reporting requirement.* On a periodic basis, OPM may request information from agencies regarding their use of these direct-hire authorities.

§ 337.207 Sunset.

The authority to use direct hire authority terminates June 14, 2004.

Subpart C—Alternative Rating and Selection Procedures

SOURCE: 68 FR 35269, June 13, 2003, unless otherwise noted.

§ 337.301 Coverage and purpose.

This subpart implements the category rating and selection procedures at 5 U.S.C. 3319. This law authorizes agencies with delegated examining authority under 5 U.S.C. 1104(a)(2) to develop a category rating method as an alternative process to assess applicants for jobs filled through competitive examining.

§ 337.302 Definitions.

In this subpart:

- (a) *Category rating* is synonymous with alternative rating as described at 5 U.S.C. 3319, and is a process of evaluating qualified eligibles by quality categories rather than by assigning individual numeric scores. The agency assesses candidates against job-related criteria and then places them into two or more pre-defined categories.
- (b) *Quality categories* are groupings of individuals with similar levels of job-

Office of Personnel Management

§ 338.301

related knowledge, skills, abilities, or competencies.

§ 337.303 Agency responsibilities.

To use a category rating system, agencies must:

(a) Establish a system for evaluating applicants that provides for two or more quality categories;

(b) Define each quality category through job analysis conducted in accordance with the “*Uniform Guidelines on Employee Selection Procedures*” at 29 CFR part 1607 and part 300 of this chapter. Each category must have a clear definition that distinguishes it from other categories;

(c) Describe each quality category in the job announcement and apply the provisions of part 330, subparts B, F and G of this chapter;

(d) Place applicants into categories based upon their job-related knowledge, skills, abilities or competencies; and

(e) Establish documentation and record-keeping procedures for reconstruction purposes.

§ 337.304 Veterans’ preference.

In this subpart:

(a) Veterans’ preference must be applied as prescribed in section 1312(a)(2) of Public Law 107-296, the Homeland Security Act, and codified at 5 U.S.C. 3319; and

(b) Veterans’ preference points as prescribed in § 337.101 are not applied in category rating.

§ 337.305 Reporting requirements.

Any agency that uses category rating must forward to OPM a copy of the annual report that it must submit to Congress pursuant to 5 U.S.C. 3319.

§ 337.306 Sunset.

The authority to use category rating terminates June 14, 2004.

PART 338—QUALIFICATION REQUIREMENTS (GENERAL)

Subpart A—Citizenship Requirements

Sec.

338.101 Citizenship.

Subpart B [Reserved]

Subpart C—Consideration for Appointment

338.301 Competitive service appointment.

Subparts D–E [Reserved]

Subpart F—Age Requirements

338.601 Prohibition of maximum-age requirements.

AUTHORITY: 5 U.S.C. 3301, 3302, 3304; E.O. 10577, 3 CFR, 1954–1958 comp., p. 218.

Subpart A—Citizenship Requirements

§ 338.101 Citizenship.

(a) A person may be admitted to competitive examination only if he is a citizen of or owes permanent allegiance to the United States.

(b) A person may be given an appointment in the competitive service only if he or she is a citizen of or owes permanent allegiance to the United States. However, a noncitizen may be given an appointment in rare cases under § 316.601 of this chapter, unless the appointment is prohibited by statute.

(c) Paragraph (b) of this section applies to reinstatement and transfer as well as to other noncompetitive appointments, and to conversion to career or career-conditional employment.

[33 FR 12429, Sept. 4, 1968, as amended at 57 FR 10124, Mar. 24, 1992]

Subpart B [Reserved]

Subpart C—Consideration for Appointment

§ 338.301 Competitive service appointment.

Agencies must ensure that employees who are given competitive service appointments meet the requirements included in the Office of Personnel Management’s Operating Manual: Qualification Standards for General Schedule Positions. The Operating Manual is available to the public for review at agency personnel offices and Federal depository libraries, and for purchase from the Government Printing Office.

[62 FR 44535, Aug. 22, 1997]